

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

PRESTON POPE,

Defendants.

8:16-CR-59

**MEMORANDUM AND ORDER ON
MOTION FOR MISCELLANEOUS
RELIEF**

This matter is before the Court on Defendant's Motion for Miscellaneous Relief. [Filing 275](#). The Motion appears to ask the Court to require the Eighth Circuit Court of Appeals to either reconsider its prior denial of Defendant's Motion to Stay consideration of his prior appeal and the Eighth Circuit's denial of Defendant's request for a certificate of appealability or to vacate its judgment on Defendant's prior appeal. [Filing 275 at 1](#); [Filing 272 at 1](#) (denying Motion to stay and request for certificate of appealability). More specifically, Defendant's present Motion asks for leave "to file a Rule 65(a), and or [sic] Rule 65(b)¹ Petition in that regard where the Appellate Court denied [Defendant's] Stay request, and denial of [a certificate of appealability], where his Custodial Caretaker's actions created a denial of his right to access to the Court." [Filing 275 at 1](#).

In its October 25, 2021, Order, the Court denied Defendant's habeas petition. [Filing 257](#). Defendant appealed that Order on March 15, 2022. [Filing 267](#). On May 16, 2022, the Eighth Circuit Court of Appeals denied Defendant's appeal. [Filing 272](#). Defendant's present Motion does not indicate that he is appealing a prior order of this Court that he has not already appealed. Moreover, this Court is a federal district court, so it is without power to order the Eighth Circuit Court of Appeals to reconsider or vacate that court's orders. See *Reiser v. Residential Funding*

¹ [Federal Rule of Civil Procedure 65](#) governs preliminary injunctions and temporary restraining orders. See [Fed. R. Civ. P. 65](#). The Court does not know why Rule 65 is purportedly relevant here.

Corp., 380 F.3d 1027, 1029 (7th Cir. 2004) (“In a hierarchical system, decisions of a superior court are authoritative on inferior courts.”). Because the Court is without authority to grant the relief requested by Defendant, the Court denies Defendant’s Motion. Accordingly,

IT IS ORDERED that Defendant’s Motion for Miscellaneous Relief, [Filing 275](#), is denied.

Dated this 3rd day of October, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge